

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gwynne A. Wilcox, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2023.

The ACTING PRESIDENT pro tempore. The Republican whip.

THE ECONOMY

Mr. THUNE. Mr. President, not content with their \$1.9 trillion so-called COVID relief bill—paid for entirely with money borrowed from younger generations of Americans and our children and grandchildren—Democrats are readying another partisan spending spree.

Democrats are preparing to consider a \$3.5 trillion tax-and-spending package, this one at least partially paid for by massive tax hikes—tax hikes on small businesses, tax hikes on large businesses, tax hikes on investment, tax hikes on well-off Americans, and tax hikes on the middle class. That is right, tax hikes on the middle class.

Now, President Biden is fond of repeating that he won't raise taxes on anyone making under \$400,000 a year, but the new death tax he is proposing will definitely hit some middle-class Americans. Let's talk about that new tax.

President Biden and congressional Democrats are proposing to eliminate a part of the Tax Code known as "step-up in basis" or referred to often as "stepped-up basis." Under our current Tax Code, when you inherit something from an estate, whether that is stocks or a house, the value of that item is stepped up from its original value to its current market value when you receive it. This prevents you from having to pay capital gains taxes on the amount that your parents' house increased in value when it was owned by your parents.

Let's say you inherit a house that your parents bought for \$100,000, but it is now worth \$500,000. Under current law, when you inherit that house, you are not liable for taxes on the increase in value from the time your parents bought it. The house is transferred to you at its current market value of \$500,000. So if you sell the house right when you inherit it, you will receive the full value of the house instead of having to pay taxes on the amount that the house increased in value while your parents owned it. If you sell that house 2 years later for \$650,000, you are only required to pay taxes on the \$150,000 in value it gained while it was in your possession.

Under the Democrats' proposal, however, capital gains taxes would automatically be triggered upon death if

the increase in value of an individual's estate has exceeded a certain amount. So, if your parents' house or the family farm or other assets have increased in value more than Democrats deem desirable, you would now owe capital gains taxes on the amount of that increase immediately after your parents' death minus the amount Democrats choose to exempt.

There are plenty of middle-class Americans around this country who would be paying this tax. You wouldn't be protected just because you make under \$400,000 a year.

Now, the President has tried to get around this by arguing that Democrats would be taxing dead individuals, not living ones. So if your parents die and pass on their estate, the argument suggests the tax that you have to send to the Federal Government isn't a tax on you but on your parents. Well, who does he think he is fooling? Who is going to experience the loss of that money—you or your parents? Who is going to be writing the check to the Federal Government? You will.

Let's imagine that a woman's parents die and leave her their estate, and 2 weeks later, a thief comes in and steals part of that inheritance. Who are people going to think was robbed—the daughter or her deceased parents? I think all of us would recognize that it was the daughter who was robbed. The same thing applies to Democrats' proposed new death tax. It is not dead Americans who would be writing checks to the Federal Government. Sure, the tax is owed by the decedent or transferor, but for all practical purposes, the costs would be borne by their descendants.

The truth is, even if we accept the argument that Democrats' new death tax is a tax on deceased Americans and not their descendants, this tax would still hit some middle-class Americans. After all, it is perfectly possible to work hard your whole life and invest wisely and see your estate appreciate in value by more than \$1.25 million—the proposed individual exemption level—over the course of your life without ever exiting the middle class. We are not talking about confining this taxation to individuals with a yearly income of \$1.25 million; we are talking about the increase in value on an estate over a person's lifetime. There is no question that this tax would fall on the estates of some thoroughly middle-class Americans.

The problems with this new death tax aren't limited to the fact that it breaks President Biden's pledge not to raise taxes on individuals making under \$400,000 a year. There are a lot of additional problems, starting with the administration and compliance costs of this tax.

Congress actually passed a similar proposal in the 1970s but repealed it before it went into effect because it was so complicated and unworkable. That is right. Congress repealed the proposal before it was even implemented be-

cause it was clear that collecting this tax was going to be too complicated.

Forty-odd years later, collecting this tax would still be an enormously complicated matter. It would put incredible new recordkeeping requirements on a lot of American families, and it would strain the capabilities of the IRS, although those 87,000 new IRS employees President Biden wants to add to the Agency would certainly increase the available manpower to levy new tax hikes.

Plus, I can only imagine the litigation that would arise over the valuation of assets. What happens if the IRS disagrees with the estimate of the value of your family farm or business? Do you have to take the IRS to court? Will the IRS take you to court?

In addition, there is a very real danger that Americans would be paying taxes on nonexistent gains, in part due to inflation and the natural expansion of the economy. Recent economic reports are raising concerns that, with the administration's robust new entitlement spending, Americans could be shouldering the burdens of significant inflation now and long into the future. But Democrats' new death tax would not account for inflation on an asset, like a family-owned farm or business, which means Americans could be paying a lot of money in taxes on nonexistent gains.

Finally, I want to talk about the threat this tax poses to family farms and businesses.

Now, Democrats claim that they will defer this tax for family farms and businesses as long as a member of the family inherits and then runs the farm or business, but it is completely unclear what this will look like in practice. Will "family members" refer only to sons and daughters? What if a stepson wants to take over the farm, or a niece? Will the inheritors still be subject to the tax then, which could result in their having to sell that farm the niece wants to run? What happens if two or more of the children want to run the farm? There are a lot of unanswered questions.

Of course, it is important to remember that Democrats will only be deferring the tax. So if the time ever comes when the family wants to sell the farm—maybe it is getting hard to run and a neighboring family is willing to buy it—the family would have to pay those taxes that were deferred when their mom or dad died. If that family farm has been handed down through a few generations already, it is completely possible that paying those taxes would consume a big part of that legacy.

There is a reason 13 House Democrats sent a letter to House Democratic leaders expressing their concern about the proposed step-up in basis repeal. It is because this tax would pose a real threat to the continued existence of family farms and businesses. It is the same reason that those in agriculture and small business communities oppose this new death tax.

I was proud to lead all 50 Senate Republicans in a letter last week, urging President Biden to drop this misguided proposal, and I will continue to do everything I can to protect family farms and businesses from this new tax.

There should be a limit on how many times the Federal Government can tax you. Americans' bank accounts should not be regarded as a bottomless barrel of money to pay for Democrats' preferred government programs, because that is exactly what is happening here. Democrats want to massively and permanently expand government, and they are looking to Americans and American businesses to pay for their social experiments. They apparently haven't spent much time considering how our economy or American families would suffer as a result of their tax-and-spending spree.

Middle-class Americans should not have to see their inheritances shrink to pay for Democrats' spending, and family farms and businesses that already face challenges from our current death tax should not have to be worrying that a new death tax will spell the end of their hard-earned legacies.

I hope the Democrats will think twice before moving forward with this new tax increase on Americans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to complete my remarks before the vote starts.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATIONS OF GWYNNE A. WILCOX AND DAVID M. PROUTY

Mrs. MURRAY. Mr. President, over the past 4 years, the National Labor Relations Board, which was founded to protect workers' rights, has again and again tipped the scales in favor of very large corporations.

While Democratic nominees to the NLRB were blocked and anti-worker nominees were jammed through, we saw decades of worker protections reversed. This has had a devastating impact on workers in our country, who are not only struggling through this pandemic but who have also seen their rights to strike and organize and bargain collectively undermined and constrained in ruling after ruling.

But, today, the Senate has the opportunity to begin healing this damage by confirming two exceptionally qualified individuals. That is why I am urging all of our colleagues to join me in supporting David Prouty and Gwynne Wilcox to serve on the NLRB.

Mr. Prouty's career is defined by his commitment to workers, with a long record representing textile workers, hotel workers, restaurant workers, baseball players, and now as a lawyer for the SEIU Local 32BJ, property service workers.

Ms. Wilcox's experience as a field attorney for the NLRB, as a lawyer representing workers before the Board,

and defending healthcare workers and protecting their rights makes clear that she has the right qualifications and values for this job.

Ms. Wilcox is not only a high-qualified nominee, she will be a historic one. She will be the first Black woman to serve on the Board, and her confirmation will bring us a step closer to ensuring our worker protections Agencies represent the diverse workforce they serve.

It is clear to me we need David Prouty and Gwynne Wilcox on the NLRB to reverse the damage done by years of anti-worker attacks and get us back on the right track of building back an economy that works for everyone, not just huge corporations and those at the top.

Now more than ever, we need to join with workers and defend their rights. Today, that means voting to confirm Gwynne Wilcox and David Prouty.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 257, Gwynne A. Wilcox, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2023.

Charles E. Schumer, Tammy Baldwin, Tim Kaine, Patty Murray, Tina Smith, Jacky Rosen, Christopher Murphy, Cory A. Booker, Mark R. Warner, Brian Schatz, Sherrod Brown, Sheldon Whitehouse, Raphael Warnock, Michael F. Bennet, Jeanne Shaheen, Patrick J. Leahy, Richard J. Durbin.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Gwynne A. Wilcox, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2023, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from South Dakota (Mr. ROUNDS).

The yeas and nays resulted—yeas 52, nays 47, as follows:

[Rollcall Vote No. 281 Ex.]

YEAS—52

Baldwin	Hickenlooper	Reed
Bennet	Hirono	Rosen
Blumenthal	Kaine	Sanders
Booker	Kelly	Schatz
Brown	King	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Leahy	Sinema
Carper	Lujan	Smith
Casey	Manchin	Stabenow
Collins	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murkowski	Warnock
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Ossoff	Wyden
Hassan	Padilla	
Heinrich	Peters	

NAYS—47

Barrasso	Graham	Portman
Blackburn	Grassley	Risch
Blunt	Hagerty	Romney
Boozman	Hawley	Rubio
Braun	Hoeven	Sasse
Burr	Hyde-Smith	Scott (FL)
Capito	Inhofe	Scott (SC)
Cassidy	Johnson	Shelby
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Cramer	Lee	Tillis
Crapo	Lummis	Toomey
Cruz	Marshall	Tuberville
Daines	McConnell	Wicker
Ernst	Moran	Young
Fischer	Paul	

NOT VOTING—1

Rounds

The PRESIDING OFFICER (Mr. HICKENLOOPER). The yeas are 52, the nays are 47.

The motion is agreed to.

The PRESIDING OFFICER. The majority whip.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate stand in recess from 1:10 p.m. until 1:55 p.m. today. I further ask that all postcloture time on the Wilcox nomination expire at 2:45 p.m. today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

JANUARY 6 SELECT COMMITTEE

Mr. DURBIN. Mr. President, yesterday, Congressman BENNIE THOMPSON called to order the first hearing of the special committee that most of our Republican colleagues have tried to block, the Select Committee to Investigate the January 6 Attack on the U.S. Capitol.

It continues to amaze me that an independent, bipartisan committee to investigate the worst assault on our democracy since the War of 1812, an assault that left one police officer dead and more than 140 injured, was filibustered and stopped in its tracks by the Republican leader of the Senate, MITCH MCCONNELL.

That is exactly what he did. He tried to conceal the truth about what happened on January 6. He tried to hide it from the American people and to do this without police officers in this building noticing, many of whom risked their lives on that day. Well, we saw yesterday that he failed. Senator MCCONNELL failed to stop the investigation. We are going to learn what